



Kay Ivey
GOVERNOR

Alabama Department of
REHABILITATION SERVICES



Jane Elizabeth Burdeshaw
COMMISSIONER

MEMORANDUM

To: Early Intervention Community
Citizens of Alabama
Interagency Coordinating Council Members

From: Betsy Prince, Coordinator
Alabama's Early Intervention System (AEIS)

Date: August 1, 2018

Re: Public Comment and Public Hearing for Proposed Changes in Eligibility Requirements

EI Program staff, service providers, family members, and the general public have an opportunity to review and make comments on the 2018 proposed eligibility requirements. Written comments may be submitted to the contact information below.

Alabama Department of Rehabilitation Services
Alabama's Early Intervention System
Attention: Amy Blakeney
602 South Lawrence Street
Montgomery, AL 36104
Fax: (334)293-7021
amy.blakeney@rehab.alabama.gov

Please distribute copies of this notice to all citizens of Alabama who have an interest in Early Intervention, parents who have children currently served through AEIS and others that might be interested in making comments. The proposed policy will be available for review on the ADRS website www.rehab.state.al.us/ei for 60 days as required by the regulations, from **August 7 to October 9, 2018**. Public comments will be accepted from **August 7 to September 7, 2018**.

According to the regulations, each state must also hold public hearings on these new policies and procedures. There will be an opportunity to participate in a public hearing to provide input on **September 12, 2018 and September 13, 2018**. The hearing will allow participants the opportunity to make comments from multiple locations around the state at the regional centers of the Alabama Institute for Deaf and Blind through the Polycom technology system.

SERVING ALABAMA'S CHILDREN AND ADULTS WITH DISABILITIES

If you would like to make comments, please come to one of the following locations during the designated times and dates:

September 12, 2018 at 12:00 p.m.- 2:00 p.m. Montgomery, Huntsville, Birmingham and Tuscaloosa

The AIDB Regional Center (RC) addresses are as follows:

Montgomery RC
432 E. Jefferson St.
Montgomery, AL. 36104
(334) 262-0824
Contact: Edwina Davis

Huntsville RC
600 St. Clair Avenue, Building 2
Huntsville, AL. 35801
(256) 539-7881
Contact: Kim Darnell

Birmingham RC
220 34th Street South
Birmingham, AL. 35222
(205) 328-3989
Contact: Candy Chhoeun

Tuscaloosa RC
2412 Skyland Blvd. East
Tuscaloosa, AL. 35405
(205) 345-2883
Contact: Judith Lines

September 13, 2018 at 9:00 a.m. – 12:00 p.m. Montgomery, Dothan, Mobile, Talladega (EH Gentry site)

Montgomery RC
432 Jefferson St.
Montgomery, AL. 36104
(334) 262-0824
Contact: Edwina Davis

Dothan RC
111 Medical Dr.
Dothan, AL. 36303
(334) 677-6270
Contact: Gwen Howard

Mobile RC
1050 Government St.
Mobile, AL 36604
(251) 432-7777
Contact: Teresa Dunnam

If you require special accommodations to enable you to participate in these hearings, please contact Alabama's Early Intervention System at (334) 293-7077.

As always, thank you for your continued support of infants and toddlers with disabilities and their families in Alabama. Please do not hesitate to contact me at (334)293-7077 if you have any questions.

cc : Jane Elizabeth Burdeshaw, Commissioner of the Department of Rehabilitation Services
Karla Smith, Chairperson of the Governor's Interagency Coordinating Council
EI State office staff

Developmental Delay

Developmental Delay Definition (34 CFR §§ 303.203(c), 303.10 and 303.111)

State definition of developmental delay.

Alabama's rigorous definition of *developmental delay*, consistent with §§303.10 and 303.203(c), that will be used by Alabama in carrying out programs under part C of the Act in order to appropriately identify infants and toddlers with disabilities who are in need of services under part C of the Act.

The state of Alabama has adopted the following definition of developmental delay:

Infant or toddler with a disability means an individual under three years of age who needs early intervention services because the individual—

(1) Is experiencing a developmental delay equal to or greater than 33%, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas:

- (i) Cognitive development.
- (ii) Physical development, including vision and hearing.
- (iii) Communication development.
- (iv) Social or emotional development.
- (v) Adaptive development; or

(2) Is experiencing a developmental delay equal to or greater than 25%, as measured by appropriate diagnostic instruments and procedures, in two or more of the following areas:

- (i) Cognitive development.
- (ii) Physical development, including vision and hearing.
- (iii) Communication development.
- (iv) Social or emotional development.
- (v) Adaptive development; or

(3) Has a diagnosed physical or mental condition that—

- (i) Has a high probability of resulting in developmental delay; and
- (ii) Includes conditions such as chromosomal abnormalities; genetic or congenital disorders; sensory impairments; inborn errors of metabolism; disorders reflecting disturbance of the development of the nervous system; congenital infections; severe attachment disorders; and disorders secondary to exposure to toxic substances, including fetal alcohol syndrome.

Other children "at risk" for developmental delay are not included in this definition.

The state of Alabama has developed procedures to determine eligibility which are described under the Evaluation & Assessment section.

Evaluation & Assessment

E/A (34 CFR §§ 303.203(c), 303.21(a)(1), 303.24, 303.25 and 303.121)

Multidisciplinary

Multidisciplinary means the involvement of two or more separate disciplines or professions and with respect to—

(a) Evaluation of the child in §§ 303.113 and 303.321(a)(1)(i) and assessments of the child and family in § 303.321(a)(1)(ii), may include one individual who is qualified in more than one discipline or profession; and

(b) The IFSP Team in § 303.340 must include the involvement of the parent and two or more individuals from separate disciplines or professions and one of these individuals must be the service coordinator (consistent with § 303.343(a)(1)(iv)).

Native language

(a) *Native language*, when used with respect to an individual who is limited English proficient or LEP (as that term is defined in section 602(18) of the Act), means—

(1) The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except as provided in paragraph (a)(2) of this section; and

(2) For evaluations and assessments conducted pursuant to § 303.321(a)(5) and (a)(6), the language normally used by the child, if determined developmentally appropriate for the child by qualified personnel conducting the evaluation or assessment.

(b) *Native language*, when used with respect to an individual who is deaf or hard of hearing, blind or visually impaired, or for an individual with no written language, means the mode of communication that is normally used by the individual (such as sign language, braille, or oral communication).

Evaluation of the child and assessment of the child and family

(a) General. (1) ADRS ensures that, subject to obtaining parental consent in accordance with § 303.420(a)(2), each child under the age of three who is referred for evaluation or early intervention services under this part and suspected of having a disability, receives—

(i) A timely, comprehensive, multidisciplinary evaluation of the child in accordance with paragraph (b) of this section unless eligibility is established under paragraph (a)(3)(i) of this section; and

(ii) If the child is determined eligible as an infant or toddler with a disability as defined in § 303.21-

(A) A multidisciplinary assessment of the unique strengths and needs of that infant or toddler and the identification of services appropriate to meet those needs;

(B) A family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet

the developmental needs of that infant or toddler. The assessments of the child and family are described in paragraph (c) of this section and these assessments may occur simultaneously with the evaluation, provided that the requirements of paragraph (b) of this section are met.

(2) As used in this part—

(i) *Evaluation* means the procedures used by qualified personnel to determine a child's initial and continuing eligibility under this part, consistent with the definition of *infant or toddler with a disability* in § 303.21. An *initial evaluation* refers to the child's evaluation to determine his or her initial eligibility under this part;

(ii) *Assessment* means the ongoing procedures used by qualified personnel to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs throughout the period of the child's eligibility under this part and includes the assessment of the child, consistent with paragraph (c)(1) of this section and the assessment of the child's family, consistent with paragraph (c)(2) of this section; and

(iii) *Initial assessment* refers to the assessment of the child and the family assessment conducted prior to the child's first IFSP meeting.

(3)(i) A child's medical and other records may be used to establish eligibility (without conducting an evaluation of the child) under this part if those records indicate that the child's level of functioning in one or more of the developmental areas identified in § 303.21(a)(1) constitutes a developmental delay or that the child otherwise meets the criteria for an infant or toddler with a disability under § 303.21. If the child's part C eligibility is established under this paragraph, the ADRS or EIS provider must conduct assessments of the child and family in accordance with paragraph (c) of this section.

(ii) Qualified personnel must use informed clinical opinion when conducting an evaluation and assessment of the child. In addition, the ADRS must ensure that informed clinical opinion may be used as an independent basis to establish a child's eligibility under this part even when other instruments do not establish eligibility; however, in no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish eligibility under paragraph (b) of this section.

Alabama's informed clinical opinion procedures for initial eligibility determination:

The following steps describe circumstances under which it is appropriate to consider the use of Informed Clinical Opinion if an infant or toddler is not determined eligible based on confirmed developmental delay of 33% or greater in one developmental domain or 25% or greater in two or more developmental domains, or a diagnosed physical or mental condition that will lead to a developmental delay as noted with the use of appropriate instruments (all other evaluation criteria has been met; such as review of child's history to include medical, educational or other records as well as tests results).

With no delay of 33% or greater in one developmental domain or 25% or greater in two or more developmental domains confirmed, at least one of the following three criteria must be addressed and the results for each documented in detail:

1. Child's performance is borderline (scored between 30-32% in one developmental area, or scored between 22%-24% in two developmental areas) on two age-appropriate procedures. One procedure should be completed by a specialist (occupational therapist, physical therapist, or speech therapist)

2. A **specialist** (occupational therapist, physical therapist, or speech therapist) whose expertise best addresses a specific area(s) of concern evaluates the child and provides test results and **written opinion** as to why the child qualifies for early intervention; e.g. test results would differ if the child was tested in another two weeks; reasons why the test instruments do not clearly reflect the child's functional ability; etc.

3. A **physical or mental condition** (the specialist within his/her discipline may establish the description of the condition or a physician may provide the description) that does not meet our eligibility criteria.

Eligibility must be re-determined based on Alabama's eligibility procedures within 6 months of initial eligibility. If eligibility cannot be determined based on Alabama's procedures within 6 months, the child should be exited from AEIS. Informed Clinical Opinion at this point is no longer an option.

(4) All evaluations and assessments of the child and family must be conducted by qualified personnel, in a nondiscriminatory manner, and selected and administered so as not to be racially or culturally discriminatory.

(5) Unless clearly not feasible to do so, all evaluations and assessments of a child must be conducted in the native language of the child, in accordance with the definition of *native language* in § 303.25.

Service coordinators will document all attempts made to accommodate for native language.

(6) Unless clearly not feasible to do so, family assessments must be conducted in the native language of the family members being assessed, in accordance with the definition of *native language* in § 303.25.

Service coordinators will document all attempts made to accommodate for native language.

(b) *Procedures for evaluation of the child.* In conducting an evaluation, no single procedure may be used as the sole criterion for determining a child's eligibility under this part. Procedures must include—

(1) Administering an evaluation instrument;

(2) Taking the child's history (including interviewing the parent);

(3) Identifying the child's level of functioning in each of the developmental areas in § 303.21(a)(1);

(4) Gathering information from other sources such as family members, other care-givers, medical providers, social workers, and educators, if necessary, to understand the full scope of the child's unique strengths and needs; and

(5) Reviewing medical, educational, or other records.

When conducting an evaluation to determine a child's eligibility, if the results of the two procedures contradict each other then a third procedure must be used to have a final determination of eligibility unless this child meets criteria for informed clinical opinion.

(c) *Procedures for assessment of the child and family.*

(1) An assessment of each infant or toddler with a disability must be conducted by qualified personnel in order to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs. The assessment of the child must include the following—

- (i) A review of the results of the evaluation conducted under paragraph (b) of this section;
 - (ii) Personal observations of the child; and
 - (iii) The identification of the child's needs in each of the developmental areas in § 303.21(a)(1).
- (2) A family-directed assessment must be conducted by qualified personnel in order to identify the family's resources, priorities, and concerns and the supports and services necessary to enhance the family's capacity to meet the developmental needs of the family's infant or toddler with a disability. The family-directed assessment must—
- (i) Be voluntary on the part of each family member participating in the assessment;
 - (ii) Be based on information obtained through an assessment tool and also through an interview with those family members who elect to participate in the assessment; and
 - (iii) Include the family's description of its resources, priorities, and concerns related to enhancing the child's development.

Adjustments for prematurity:

When determining eligibility, evaluators must adjust for prematurity, as appropriate to the established guidelines.

Guidelines for adjusting for prematurity

1. Instruments used to determine eligibility for premature infants and further assessment of eligible infants and toddlers should be selected based on: (a) the chronological age of the child (under 18 months) and (b) validity of results (instrument considered valid when adjusting for prematurity).
2. When two instruments are paired for determining eligibility, both instruments must allow for adjusting for prematurity. Instruments which do not have validity when corrected age is applied to scoring are not considered appropriate for use.
3. Correcting age for infants and toddlers born prematurely should end when a child reaches a chronological age of 18 months. Adjusting for prematurity after 18 months chronological age places a child's eligibility disposition at risk.

Adjustments for prematurity are made by using chronological age minus the period of time an infant was born early. For example, if a 12 week old baby was born four weeks early, corrected age is eight weeks.

Scoring:

Evaluators must follow each instrument's protocol for scoring. However, if the score results does not yield a whole number then the evaluator should round using the following principle: Any score that is .5 or higher should be rounded to the next whole number; e.g. 18.5 becomes 19. Any score that is .4 or less should be rounded down to the next whole number; e.g. 18.4 becomes 18.

Evaluation Report:

The EI state office has developed a form, "Eligibility Determination Report or EDR" to assist evaluators in complying with federal regulations and Alabama policies. This format is not required; however, evaluators are encouraged to use this form. Any format used will be monitored for compliance.